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MAR 15 2007

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First named inventor: Robert Walther

Application No.: 10/757,564

Art Unit: 3751

Filed: January 15, 2004

Examiner: unknown

Title: Method of Manufacturing a Fuel Filler Tube

Agent's Ref.: 1406-23/JLW

Attorney: Paul Shanowski

## SENT BY FAX

Commissioner for Patents  
U.S. Patent and Trademark Office  
Mail Stop Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450  
U.S.A.

Dear Sir:

**RENEWED PETITION UNDER 37 CFR 1.47(a)**  
**AND PETITION UNDER 37 CFR 1.183**

The undersigned being hereby warned that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such wilful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that:

1. The PETITIONER, Detlef Stoetzel, hereby renews his petition that the United States Patent Application filed on January 15, 2004, entitled "Method of Manufacturing a Fuel Filler Tube" and assigned serial number 10/757,564, be accepted for filing in the United States Patent and Trademark Office, and submits the following in reply to the Decision on the original Petition under 37 CFR 1.47(a), mailed on September 15, 2004. Presented herewith is a separate petition for a 4-month extension of time for filing a reply to the Decision.
2. The petitioner repeats and relies on the grounds of petition previously set out in the Petition filed originally on September 20, 2004. As set out in the Decision of September

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15, 2006, the Petitioner has already met requirements (1) to (3) of Rule 1.47(a). The grounds for this renewed petition are as follows:

- (a) Diligent efforts were made to locate the non-signing inventor Mr. Walther and obtain his consent;
  - (b) Mr. Walther refused to provide his signature unless Marinrea paid to him additional monies to which he is not entitled;
  - (c) Evidence is submitted which establishes Martinrea's right, title, and ownership over the invention;
  - (d) The Petitioner has made a declaration on behalf of Robert Walther pursuant to 37 CFR 1.64;
  - (e) The statement of facts set out in the affidavit affirmed by Mark Eisen on March 15, 2007; and, in the affidavit affirmed by Vincent Man on March 15, 2007 filed herewith.
  - (f) A letter to the Canadian Patent Office dated January 5, 2006 with attached assignment and affidavit of Mark Eisen sworn January 5, 2006 with Mr. Walther's employment agreement attached as Exhibit A and Ms. Wilson's correspondence with Mr. Walther attached as Exhibit B.
3. A Petition for a 4 month Extension of Time is filed concurrently herewith.
4. The Petitioner further petitions that the requirements of 37 CFR 1.52(c)(1) were met, and that the declaration was properly executed by the participating inventor Stoetzel as required under 37 CFR 1.52(c)(1), thus fulfilling the fifth requirement of 37 CFR 1.47(a). The grounds for this petition are as follows:
- (a) 37 C.F.R. 1.52(c)(1) only requires that changes must be made before the signing of the oath or declaration ... and should be dated and initialled or signed by the applicant on the same sheet of paper; Mr. Stoetzel made the alteration and then signed and dated the declaration on the same sheet as the alteration, thus complying with the requirements of 37 C.F.R. 1.52(c)(1);
  - (b) Further evidence that Mr. Stoetzel was aware of, and made the alteration, is provided by the assignment executed by Mr. Stoetzel in connection with the

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corresponding Canadian patent Application, said assignment enclosed with the letter of Mark Eisen dated January 5, 2006 to the Canadian Patent Office.

5. The petition fee as set out in 37 CFR 1.17(g) in respect of the renewed petition under 37 CFR 1.47 is \$200.00 and an extension fee pursuant to 1.136(1) and 1.17(a) in the amount of \$1,590.00. The fees are to be charged to our Deposit Account No. 500663. A duplicate of this paper is enclosed if required for this purpose.
6. The Commissioner is authorized to charge any deficiency or credit any overpayment in the above fees to our Deposit Account No. 500663. A duplicate of this page is enclosed if required for this purpose.

---

March 15, 2007

Date



---

Mark B. Eisen  
Registration No. 33088

Customer Number: 38735

Enclosures: Duplicate page  
Petition for 4-month extension of time  
Affidavit of Vincent Man  
Declaration of Mark Eisen

EdeVjp

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corresponding Canadian patent Application, said assignment enclosed with the letter of Mark Eisen dated January 5, 2006 to the Canadian Patent Office.

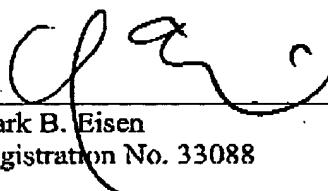
5. The petition fee as set out in 37 CFR 1.17(g) in respect of the renewed petition under 37 CFR 1.47 is \$200.00 and an extension fee pursuant to 1.136(1) and 1.17(a) in the amount of \$1,590.00. The fees are to be charged to our Deposit Account No. 500663. A duplicate of this paper is enclosed if required for this purpose.

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March 15, 2007

Date



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Mark B. Eisen  
Registration No. 33088

Customer Number: 38735

Enclosures: Duplicate page  
Petition for 4-month extension of time  
Affidavit of Vincent Man  
Declaration of Mark Eisen

EdeV.jp

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IN THE MATTER OF United States Patent  
Application No. 10/757,564 for METHOD  
OF MANUFACTURING A FUEL FILLER  
TUBE filed by Robert WALTHER and  
Detlef STOETZEL on January 15, 2004  
("the Application")

**DECLARATION OF MARK EISEN**  
**(affirmed March 15, 2007)**

The undersigned being hereby warned that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such wilful false statements may jeopardize the validity of the application or any patent resulting therefrom, declares that:

1. I am a barrister and solicitor and a patent agent in good standing before the United States Patent and Trademark Office as a foreign attorney. I was appointed as agent and representative in respect of United States Patent Application No. 10/757,564. As such, I have personal knowledge of the matters to which I hereinafter depose, except where my knowledge is stated to be based upon information and belief.
2. Attached an Exhibit to this Declaration is a letter I sent to the Canadian Patent Office in connection with the corresponding Canadian Patent Application. Enclosed with my letter was an assignment executed by one of the inventors Mr. Detlef Stoetzel and an affidavit sworn by me on January 5, 2006 that included a copy of Mr. Walther's employment agreement as Exhibit A and a copy of correspondence between Ms. Wilson of our firm and Mr. Walther starting November 1, 2004 as Exhibit B.
3. I am advised by Gabriel Pascu, in-house legal counsel for Martinrea International Inc. ("Martinrea"), that Martinrea employed both Robert Walther and Detlef Stoetzel, the named inventors of Application No. 10/757,564, at the time the invention described therein (the "Invention") was made. During the preparation of the priority application I personally interviewed Robert Walther at Martinrea's premises on January 7, 2003. At that time Mr. Walther was introduced to me, in his own presence, as an employee of Martinrea, and Mr. Walther did not contradict this

information. This incident took place in the province of Ontario. Mr. Walther was hired as a Project Manager for duties including the planning and developing methods and procedures for implementing a manufacturing program including the timing, concept, feasibility, design review, tooling/equipment, try-out, prototype, mass production parts, launch and final buy-off as well as participating in product design. A copy of his employment agreement and job description is attached as Exhibit A to my affidavit of January 5, 2006 filed with the Canadian Patent Office in respect of the corresponding Canadian Patent Application. I am satisfied as a barrister and solicitor in the province of Ontario that based upon these facts, the ownership of any invention described in the Application at issue here vests in Martinrea.

4. The priority application was filed in Canada on January 17, 2003, and was assigned serial number 2,417,248. I am advised by Mr. Pascu and verily believe that Mr. Walther's employment was terminated on July 15, 2003, after Canadian Patent Application No. 2,417,248 (the "Priority Application") was filed.

5. After Mr. Walther's employment was terminated, efforts were made by Jenna Wilson, another patent agent at my firm, to contact him at his last known address. These efforts were initially unsuccessful, as set out in the Affidavit of Jenna Wilson dated September 15, 2004, previously filed in respect of this Application.

6. Subsequently, in November 2004 Ms. Wilson contacted Mr. Walther by courier to Weil Engineering where it was believed he had taken up employment. She requested that he formally assign his rights in the invention to Martinrea. I am advised by Ms. Wilson and verily believe that Mr. Walther refused to sign any documents relating to the Application unless Martinrea paid him compensation in exchange for his signature. A copy of the correspondence between Ms. Wilson and Mr. Walther is attached as Exhibit B to my affidavit of January 5, 2006 filed with the Canadian Patent Office in respect of the corresponding Canadian Patent Application.

AFFIRMED BEFORE ME at the City  
of Toronto, in the Province of Ontario,  
on March 15, 2006.



Commissioner for taking affidavits

Etienne de Villiers



MARK EISEN

IN THE MATTER OF United  
States Patent Application No.  
10/757,564 for METHOD OF  
MANUFACTURING A FUEL FILLER  
TUBE filed by Robert WALTHER and  
Detlef STOETZEL on January 15, 2004  
("the Application")

**EXHIBIT**

To the Declaration of Mark Eisen  
affirmed March 15, 2007

A handwritten signature in dark ink, appearing to be 'Mark Eisen', written over a horizontal line.

A Commissioner, etc.




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MARK B. EISEN  
Ext. 242  
meisen@dimock.com*Certified by the Law Society as a Specialist  
in Intellectual Property (Patent) Law*

HAND DELIVERED

January 5, 2006

The Commissioner of Patents  
Gatineau, Quebec  
K1A 0C9ENTERED JAN - 5 2006  


Dear Sir/Madam:

Re: Canadian Patent Application No. 2,417,248  
Title: METHOD OF MANUFACTURING A FUEL FILLER TUBE  
Applicant: WALTHER, Robert; STOETZEL, Detlef  
Our File: 1406-13/MBE

We enclose herewith an assignment transferring all rights in the invention from the inventor Detlef Stoetzel to Martinrea International Inc. for registration against this application.

We also enclose herewith for registration against this application an affidavit of the undersigned establishing that the assignee, Martinrea International Inc., is a legal representative of the joint inventor, Robert Walther.

The Commissioner is hereby authorized to charge our Deposit Account No. 600000075 in the amount of \$200.00 in payment of assignment registration fees.

Should the fees submitted with this letter be insufficient to cover all of the fees for which payment is explicitly or implicitly requested by this letter, the Commissioner is authorized to charge the amount of the insufficiency to our VISA account.

We look forward to receiving the Registration Certificates in due course.

Yours very truly,  
DIMOCK STRATTON LLP

MARK B. EISEN

MBE:lf  
Encl. Assignment  
Affidavit of Mark Eisen

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## ASSIGNMENT

**Robert WALTHER** (Assignor), whose full post office address is 2210 Lakeshore Road East, Unit #405, Burlington, Ontario, Canada L7R 4J9; and

**Detlef STOETZEL** (Assignor), whose full post office address is 816-  
~~250 Webb Drive, Mississauga, Ontario, Canada L5B 3Z4;~~  
95 PRINCESS MARGARET BLVD, ETOBICOKE, ON, M9B 2Z2

in consideration of One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby sell and assign to

**MARTINREA INTERNATIONAL INC.** (Assignee), whose full post office address is 30 Aviva Park Drive, Vaughan, Ontario, Canada L4L 9C7

all their right, title and interest worldwide in and to the invention entitled **METHOD OF MANUFACTURING A FUEL FILLER TUBE** (the Invention), and in and to Canadian Patent Application No. 2,417,248 filed January 17, 2003; and United States Patent Application No. 10/757,564 filed January 15, 2004; and any registration or patent to issue therefrom or from any continuation, continuation-in-part or divisional application based thereon, the same to be held and enjoyed by the Assignee to the full end of the term thereof, as fully and entirely as the same could have been held and enjoyed by the Assignors if this assignment had not been made.

The Assignors hereby agree to execute without further consideration such further documentation as may be required to obtain any patent for the Invention and to vest rights in any patent or patent application for the Invention in the Assignee.

WITNESSED at Brampton, Ontario, on May 18, 2004  
(City/Town, Country) (Date)

Witness:

**Robert WALTHER**

---

(signature of witness)

---

(print name of witness)

Page 1 of 2

WITNESSED at Brampton Ontario, on May 18 2004  
(City/Town, Country) (Date)

Witness

[Signature]  
(signature of witness)

Vince Ferri  
(print name of witness)

Detlef STOETZEL

[Signature]

1406-23/MBE

IN THE MATTER OF Canadian Patent  
Application No. 2,417,248 for  
METHOD OF MANUFACTURING A  
FUEL FILLER TUBE filed by Robert  
WALTHER and Detlef STOETZEL on  
January 17, 2003 ("the Application")

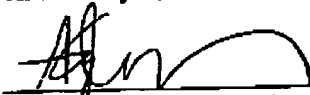
**AFFIDAVIT OF MARK EISEN**  
(sworn January 5, 2006)

I, Mark Eisen, of the City of Toronto, AFFIRM THAT:

1. I am a barrister and solicitor and a Canadian patent agent in good standing before the Canadian Intellectual Property Office. I am a partner in the law firm Dimock Stratton LLP ("my firm"), the firm appointed as agent and representative in respect of Canadian Patent Application No. 2,417,248. As such, I have personal knowledge of the matters to which I hereinafter depose, except where my knowledge is stated to be based upon information and belief.
2. I am advised by Gabriel Pascu, in-house legal counsel for Martinrea International Inc. ("Martinrea"), that Martinrea employed both Robert Walther and Detlef Stoetzel, the named inventors of Application No. 2,417,248, at the time the invention described therein (the "Invention") was made. I attach as Exhibit "A" a letter of confirmation of Robert Walther's employment by Hydroform Solutions (a division of Martinrea) dated October 18, 2002. During the preparation of the Application I personally interviewed Robert Walther at the Applicant's premises on January 7, 2003. At that time Mr. Walther was introduced to me, in his own presence, as an employee of Martinrea.
3. The Application was filed in Canada on January 17, 2003, and was assigned serial number 2,417,248. I am advised by Mr. Pascu and verily believe that Mr. Walther's employment was terminated on July 15, 2003, after the Application was filed.

4. After Mr. Walther's employment was terminated, efforts were made by my firm to contact him at his last known address. These efforts were initially unsuccessful. In November 2004, another patent agent at my firm Jenna Wilson successfully contacted Mr. Walther and requested that he formally assign his rights in the invention to Martinrea. Mr. Walther refused to sign any documents relating to the Application unless Martinrea paid him compensation in exchange for his signature. I am advised by Jenna Wilson and verily believe that Mr. Walther admitted to her that he was employed at Martinrea when the invention was created, but his position was that he worked hard on the project and management had failed to support him so he would not sign any documents without further compensation. Attached as Exhibit "B" is a copy of the letter and email exchange between Ms. Wilson and Mr. Walther.

AFFIRMED BEFORE ME at the City  
of Toronto, in the Province of Ontario,  
on January 5, 2006.

  
Commissioner for taking affidavits

Adrian M. Kaplan

  
MARK EISEN

**hydroform**  
S O L U T I O N S

A Division of



**PERSONAL AND CONFIDENTIAL**

October 18, 2002

Dear Mr. Robert Walther:

This letter will confirm our offer of employment and your acceptance on the following terms.

**Position**

You are being employed as Project Manager, Hydroforming. Your job description, duties and responsibilities shall be as discussed and otherwise consistent with the general duties and responsibilities of a Project Manager, Hydroforming. Your start date shall be October 21, 2002 or as soon as possible thereafter. You will be reporting to Detlef Stoetzel, General Manager.

**Compensation**

In consideration of your performance of your job duties and responsibilities, and the obligations contained in this Agreement, you will receive a yearly salary of \$85,000 CDN.

**Vacation and Other Benefits**

Your vacation entitlement shall be two weeks paid per year. You will also be placed on our employee benefit package. The details of this package are available from our Human Resource Department.

We will also reimburse you for mileage incurred for business purposes at \$ 0.30 (30 cents) per kilometer, and for all other business related expenses, as submitted by you on expense statements from time to time.

1995 Williams Parkway Brampton, Ontario L6S 6E5 Tel: (905) 799-2498 Fax: (905) 799-3490

### Probationary Period

There will be a probationary period of three (3) months during which time either the Company or the Employee can terminate employment without any further compensation being required. Subject to satisfactory performance, your appointment will take full effect at the end of the three (3) month period.

### Termination

Your employment may be terminated by the Company at any time after the first three months by the giving of a one (1) month notice period or payment in lieu thereof, in the Company's sole discretion. In the event you wish to terminate your employment, you shall provide the Company with one (1) month working notice in writing, and the Company shall be entitled, in its discretion, to waive such notice, in which case your employment shall be terminated immediately, without further compensation.

*only if they want*

### Confidential Information

It is essential that the business and affairs of the Company, its subsidiaries or affiliated companies ("MRE") be kept in the strictest of confidence. Therefore, you shall not at any time or in any manner, except when authorized or required by law, divulge, disclose or communicate to any person, firm, agency or corporation any information concerning any confidential matters with respect to MRE. It is understood that a confidential matter shall be considered to be any matter which is not a matter of knowledge to the general public and in the event there is a dispute as whether any information is a matter of public knowledge, you shall bear the burden of demonstrating this.

### No Competition or Solicitation of Company Customers

It is agreed that for a period of two (2) years following the termination of your employment with the Company you shall neither engage in a business competing directly or indirectly with MRE, nor solicit, directly or indirectly, any Company Customer. "Company Customer" shall be defined as any person, business or agency that is, or was during the period of your employment, a customer of MRE who you dealt with either directly or indirectly on behalf of MRE.

1995 Williams Parkway Brampton, Ontario L6S 6E5 Tel: (905) 799-2498 Fax: (905) 799-3490

Please sign below in confirmation of the terms of this employment contract.

Yours sincerely,

**MARTINREA**

I have read the above and agree to the terms of this employment contract:

P. Martinrea  
Name:

10-18-02  
Date:

On behalf of the Company:

[Signature]  
Name:  
Title:

10-18-02  
Date:



## JOB DESCRIPTION

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TITLE: PROGRAM MANAGER

DEPARTMENT: ENGINEERING

REPORTING TO: ENGINEERING MANAGER

## Scope

To manage activities of New Product Development and Continuous Improvements on existing programs. To ensure the production of products that meet or exceed customer needs/expectations, and achieving maximum manufacturing efficiencies. Active participant in plant management team to maximize effective use of resources.

## JOB REQUIREMENTS:

- Engineering Degree and or equivalent experience
- Preferably 7 years of relevant progressive work experience in the automotive industry
- Thorough understanding of QS 9000 requirements
- Be motivated and capable of delivering projects on time and within budget
- Required to work extra hours to meet customer needs
- Able to work at various locations within and outside the plant
- Required to travel
- Good organizational, leadership, interpersonal and problem solving skills
- Work independently and or in a team environment

## RESPONSABILITIES:

- Manages program to ensure that implementation and related activities are carried out in accordance with customers specified objectives
- Plans and develops methods and procedures for implementing program to include timing, concept, feasibility, design review, tooling/equipment, try-out, prototype, mass production parts, launch, final buy-off
- Participates in product design offering constructive input about manufacturing
- Coordinates programs as per the APQP process and monitor the work and associated resources during the project implementation
- Keeps customer informed by updating, timelines and or open issues list
- Continually review project progress and adjust parameters if necessary to steer the project to a successful completion
- Coordinates changes request from customers, reviewing development efforts and then communicating updated costs and schedules to the customer
- Develops quotations for piece price, tooling/equipment and capitol costs
- Maintains/updates all related costs to program budget
- Prepares and updates upper management team with program timing and any major issue that needs to be resolved
- Coordinates initial product shipments to ensure product is delivered on time

**DIMOCK STRATTON LLP**  
*Intellectual Property Law***RECEIVED**  
**CENTRAL FAX CENTER****MAR 15 2007****JENNA L. WILSON**  
Ext. 290  
jwilson@dimock.com**SENT BY COURIER**

November 1, 2004

**URGENT - REPLY REQUIRED****Mr. Robert Walther**  
Weil Engineering  
1180 E. Big Beaver  
Troy, Michigan 48083-1934  
USA

Dear Mr. Walther:

**Re: United States Patent Application No. 10/757,564**  
**Title: METHOD OF MANUFACTURING A FUEL FILLER TUBE**  
**Applicant: Martinrea International Inc.**  
**Our File: 1406-23/JLW**

I am writing on behalf of Martinrea International Inc. ("Martinrea"), the assignee and owner of U.S. Patent Application No. 10/757,564. This patent application, "Method of Manufacturing a Fuel Filler Tube" claims priority from Canadian Patent Application No. 2,417,248, which was filed during the time of your employment with Martinrea. You are a named inventor in respect of these patent applications.

Martinrea requires your signature and the date of your signature on the document entitled "Utility Patent Application: Declaration, Power of Attorney" at the place marked. Please call me at (416) 971-7202, collect, to acknowledge receipt of these documents, and courier or fax the signed Declaration and Power of Attorney back to me. You will be reimbursed for any reasonable delivery charges.

If, for some reason, you cannot or will not return the executed Declaration and Power of Attorney back to me by **November 12, 2004**, please call me collect at (416) 971-7202 or e-mail me at jwilson@dimock.com to let me know.

20 Queen Street West, Suite 3202, Box 102, Toronto, Ontario Canada M5H 3R3  
Tel: 416.971.7202 Fax: 416.971.6638

- 2 -

I look forward to receiving the executed Declaration and Power of Attorney on or before November 12, 2004.

Yours very truly,

**DIMOCK STRATTON LLP**

**ORIGINAL SIGNED BY  
JENNA L. WILSON**

JENNA L. WILSON

JLW:rt  
Encl.

Jenna Wilson

---

From: Robert Walther [rwalther@weilengineering.com]  
Sent: November 8, 2004 3:10 PM  
To: Jenna Wilson  
Subject: RE: hydroformed fuel filler

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Hello Jenna

If that is true, my signature will be not necessary...

Thanks for your Support and greetings to Toronto!

Robert Walther

-----Original Message-----

From: Jenna Wilson [mailto:jwilson@dimock.com]  
Sent: Monday, November 08, 2004 2:52 PM  
To: Robert Walther  
Subject: RE: hydroformed fuel filler

Dear Mr. Walther,

Thank you for responding to my letter.

It is Martinrea's position that by virtue of operation of Ontario law, as you were an employee at the time of invention, your invention is owned by Martinrea and you are not entitled to any royalties.

Please advise me whether you are willing to sign the declaration and power of attorney.

Thanks in advance for your co-operation.

Jenna Wilson

---  
Jenna L. Wilson  
Dimock Stratton LLP  
3202-20 Queen Street West Toronto Ontario Canada M5H 3R3  
Tel (416) 971-7202 Fax (416) 971-6638 www.dimock.com

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-----Original Message-----

From: Robert Walther [mailto:rwalther@weilengineering.com]  
Sent: November 3, 2004 2:13 PM  
To: Jenna Wilson  
Subject: re: hydrofoxmed fuel filler

Hello Jenna

Thanks for your update on the patent, how is Mark Eisen doen ?

Why should I sign off on your request?

I joint Martinrea because I was impressed from "Fred's" Vision.

I worked hard on this project where nobody from HS understood the technical advantage and a management team which not stand behind me.  
Also I sent a letter to HR department to Marinrea a year ago, because I

wanted an answer regarding "wrongful dismissal".  
The patent application was filed January 15, 2003 (officially I was allowed  
to work for Martinrea January 24, 2003), I never signed something over to  
HS.  
This method of manufacturing will become very interesting in the future,  
what's Martinrea's proposal on royalties?

Best Regards from Michigan!

Robert Walther  
General Manager  
Weil Engineering North America  
248-743-1200

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